

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DR. STEPHEN T. SKOLY, Jr.

Plaintiff,

vs.

DANIEL J. MCKEE, in his official capacity as the Governor of the State of Rhode Island; and JAMES McDONALD, in his official capacity as the Interim Director of the Rhode Island Department of Health,

Defendants.

C.A. 1:22-cv-00058-JJM-LDA

**STATE DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER**

Governor Daniel J. McKee, in his official capacity only, and James McDonald, MD, MPH, in his official capacity only (“State Defendants”) hereby object to Plaintiff’s Motion for a Temporary Restraining Order. The State Defendants submit that this Court should abstain due to the Younger abstention doctrine and the ongoing state administrative enforcement proceeding. The State Defendants also rely upon Exhibit A attached, entitled “Incidence of Bell Palsy in Patients with COVID-19,” written by Akina Tamaki, MD, et al., and published in the JAMA Otolaryngology – Head and Neck Surgery Journal in August 2021. The attached document, highlights that a reoccurrence of Bell’s Palsy is more likely to occur with a covid diagnosis opposed to the covid vaccine.

Additionally, Plaintiff has failed to demonstrate an immediate irreparable harm. The complaint specifically avers that the Department of Health Compliance Order issued October 1, 2021 (the Regulation had been announced in August 2021), yet Plaintiff brings this action at this late date, undermining any argument of immediate irreparable harm. Additionally, Plaintiff seeks to reverse, not maintain the status quo. Finally, without diminishing the Plaintiff's interests, without a finding of a constitutional violation, "the rule promotes strong public interests and [] an injunction would not serve the public interest." *Doe v. Mills*, 2021 WL 4860328 * 11 (1st Cir. 2021).

Respectfully submitted,

Daniel J. McKee, in his official capacity as
the Governor of the State of Rhode Island,
and James McDonald, MD, MPH, in his
official capacity as the Interim Director of
the Rhode Island Department of Health

Defendants,

BY:

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I filed the within via the ECF filing system and that a copy is available for viewing and downloading. I have also caused a copy to be sent via the ECF System to counsel of record on this 7th day of February, 2022.

/s/ Chrisanne Wyrzykowski